REMARKS

Favorable consideration and allowance of the application are respectfully requested. Claims 1-10 were in this application, claim 1 has been amended, and claims 6-10 were previously withdrawn in response to a restriction requirement.

Claim 1 has been amended to add two pressing steps. Claim 1 is directed to using a plastic film as a packaging material, by way of example, being transparent cellophane, which would be understood by one skilled in the art to require different handling from, for example, a paper packaging material as used in Ballestrazzi.

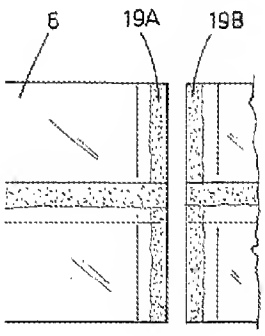
In particular, after the folding step of the band of plastic film, the overlapped portions of the band could not be perfectly adhered to each other following Ballestrazzi, as wrinkles in the film would occur.

Of course, wrinkles on the overlapped film portions can detrimentally affect the bonding action of the longitudinal strips of glue (18) and also the transversal zones of glue (19), making it difficult to obtain a stable joining, and so the articles will not be perfectly enclosed in a completely sealed package.

Thus, to avoid this problem, the applicant has employed a pressing action, more precisely, a pressing action over the overlapped longitudinal edges of the band and a pressing action over specific areas of the transversal zones of glue where the crosswise cutting must be performed.

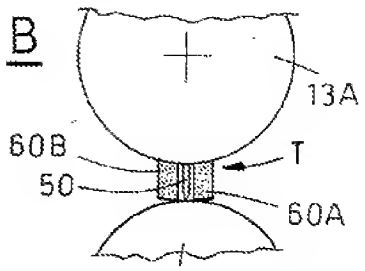
Accordingly, after the folding and joining steps of the longitudinal edges of the band, a first special pressing step is undertaken, by "pressing said overlapped longitudinal edges of the band in correspondence of the longitudinal strip of glue for stabilizing the longitudinal joining of the longitudinal edges". See p. 7, l. 20-25: "downstream of the folding means 10, in the direction A of the conveying belt 5 forward movement, there is a rotary presser belt 11, aimed at acting on the overlapped edges of the band of plastic film 6, substantially in the area covered by the longitudinal strip of glue 18, in order to stabilize the union of the edges." At p. 9, l. 7-10, it is further stated that "then, the rotary presser belt 11 acts on the overlapped edges of the band of plastic film 6 substantially in the area with the longitudinal strip of glue 18, so as to stabilize the longitudinal joining of the edges."

Claim 1 as amended also includes a further pressing step, by "pressing the side portions (19A, 19B) of the transversal zones of glue (19) for stabilizing the crosswise joining of the side portions (19A, 19B) and, at the same time, crosswise cutting said band of plastic film (6) between the pressed side portions (19A, 19B) of the transversal zones of glue (19), in order to obtain single packages of articles".



This is described in the description and shown in figures 1B and 3. In particular, at p. 8, l. 9-14 is stated that" The cutting member T include a blade 50, carried radially by the upper wheel 13A and situated between two presser elements

60A, 60B, aimed at pressing two side by side crosswise portions 19A, 19B in the zone 19. The portions 19A, 19B will be separated upon cutting the zone 19 by the blade 50".



At p. 9, l. 11-23 it also reported that "the band of plastic film 6, wrapped in tubular form around the articles 2 reaches the counter-rotating rollers 13A, 13B of the cutting means 12, which stabilize, due to the action of the small pressers 60A, 60B, the joining of the portions with the transversal zone of glue 19, and cut the band 6 crosswise, by the cutting member T. It is to be noted that the band of plastic film 6 is cut crosswise by the blade 50 along the portions joined by the transversal zones of glue 10, and more precisely, in the middle of the zones 19, that is between the portions 19A, 19B."

The pressing action over the longitudinal edges of the band, in correspondence to the longitudinal strip of glue, avoids the formation of wrinkles once the band of plastic film has been folded over the articles, and allows the longitudinal strip of glue to realize a stable and durable bond between these longitudinal edges.

The pressing action over the side portions (19A, 19B) of the transversal zones of glue (19) is performed at the same time of the crosswise cutting action, to avoid the presence of wrinkles on the folded portions of the band and to allow a stable crosswise joining of the side portions (19A, 19B). The transversal edges of the

cut and separated single packages are thus perfectly sealed, without the presence of wrinkles.

Claims 1-5 were rejected under 35 USC 103(a) as being obvious over Ballestrazzi, EP 526944 A1 ("EP '944").

To establish a prima facie case of obviousness based on a combination of references, there must be some teaching, suggestion or motivation in the prior art to make the specific combination that was made by the applicant. In re Raynes, 7 F.3d 1037, 1039, 28 U.S.P.Q.2D (BNA) 1630, 1631 (Fed. Cir. 1993); In re Oetiker, 977 F.2d 1443, 1445, 24 U.S.P.Q.2D (BNA) 1443, 1445 (Fed. Cir. 1992). Obviousness can not be established by hindsight combination to produce the claimed invention. In re Gorman, 933 F.2d 982, 986, 18 U.S.P.Q.2D (BNA) 1885, 1888 (Fed. Cir. 1991). As discussed in Interconnect Planning Corp. v. Feil, 774 F.2d 1132, 1143, 227 U.S.P.Q. (BNA) 543, 551 (Fed. Cir. 1985), it is the prior art itself, and not the applicant's achievement, that must establish the obviousness of the combination.

Amended claim 1 is not believed to be obvious over EP' 944.

EP '944 relates to an apparatus for sealing an article inside a package made from a paper material instead of a plastic material ("...a particular problem arises in forming the finished package, as no apparatus has yet been conceived which is able to seal the product to be packaged within a continuous paper material ...the object of the present invention is to provide an apparatus able to suitably seal the paper around

the product.").

Paper is handled much differently that plastic due to the different physical properties. For example, plastic may be stretched where paper would be torn. To use a sheet of paper material, Ballestrazzi specifically applies a strip of glue along a longitudinal edge of the paper material only when the paper material in located on the conveyor and during the folding of the longitudinal edges.

The two specific pressing actions as above described and claimed in amended claim 1 are not found, taught or suggested by Ballestrazzi.

Ballestrazzi is silent as to the performance of a pressing action over the overlapped longitudinal edges of the paper material after the band of the paper material has been folded over the articles.

Furthermore, Ballestrazzi specifically describes the crosswise cutting of the paper band, using only a transverse blade (21). There is no mention of the possibility to perform a pressing action over side portions of the transversal zones of glue.

In fact, at col. 2, l. 40-47, Ballestrazzi states: "Downstream of the sealing apparatus according to the invention there is provided a transverse cutting element shown schematically at 21, for example comprising a transverse blade which by moving vertically with reciprocating motion separates the individual packages defined by the adhesive material, these being finished and perfectly sealed".

The Examiner, at page 2, last paragraph of the final office action, took official notice that Ballestrazzi does not disclose the step of providing the film as a

plastic film, but argued that such use of plastic film to pack an article is old, well known and available in the art, noting that Ballestrazzi disclosed in the abstract an apparatus for sealing a continuous web of packaging paper or "the like" material. But paper is not like a thin, flexible and pliable plastic film, the well know characteristics of transparent cellophane film, as would be understood by one skilled in the art. Anyone who has used ordinary household plastic wrap knows how different this is to handle, for example when compared to wax paper or freezer wrap paper. Nice crisp folds are possible with paper; not so with plastic films. Consequently, the examiners' conclusion that the Ballestrazzi method is capable of being used with other material such as plastic film is incorrect.

If the skilled person were to use a plastic film instead of a paper material and perform the method steps as taught by Ballestrazzi, he would not arrive at the subject matter of amended claim 1, because he would not find in any part of the disclosure of Ballestrazzi any hint, incentive or suggestion as to the need to perform a pressing action over the overlapped longitudinal edges of the band and a pressing action over the side portions of the transversal zones of glue to obtain a completely and perfectly sealed package.

Ballestrazzi does not teach what steps would need to be modified or added for example, to avoid wrinkles on the folded band or which would allow the folded portions of the band to be perfectly adhered, with a stable joint formed by the longitudinal strip of glue and the transversal zones of glue. Consequently, amended

claim1 and the claims depending therefrom are not rendered obvious by EP '944.

Based on the above amendment and remarks, reconsideration and removal of the grounds for rejection are respectfully requested. However should the examiner believe that direct contact with the applicant's attorney would advance the prosecution of the application, the examiner is invited to telephone the undersigned at the number given below.

Respectfully submitted,

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